

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,
v.
EDWARD WALSH VAUGHAN (1)
HADI AKKAD (2)

Case No. 4:22-cr-00162-ALM-BD

**DEFENDANTS' RENEWAL OF MOTION FOR MISTRIAL (DOC. 355) BASED
ON CONSTRUCTIVE AMENDMENT OF THE
FIRST SUPERSEDING INDICTMENT**

Defendants Vaughan and Akkad renew their motion for mistrial (Doc. 355) based on constructive amendment of the first superseding indictment by addition of the "double charge" or ".15/.2% card brand fee" theory--the theory that defendants defrauded ETS' customers by charging the card brand fee--typically .15% or .20%--in addition to the offline debit fee of .3% for offline debit transactions. Defendants adopt the argument and reasoning from their initial motion. Defendants renew the motion now principally based on the government's opening statement and the testimony of Agent Jason Rennie, Eric Jiles, and Lowell Thomas, all of which emphasized the "double charge" or ".15/.2% card brand fee" theory.

We recognize that the Court has held that the "double charge" or ".15/.2% card brand fee" theory does not amount to a constructive amendment of the indictment. We renew the motion for mistrial to ensure the record is preserved in the event of a conviction at the

second trial.

Dated: May 15, 2025.

Respectfully submitted,

/s/ Joseph Brown

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CERTIFICATE OF SERVICE

I hereby certify this Motion was electronically filed on May 15, 2025, and all counsel was electronically served via this Court's Electronic Filing System on the day of filing.

/s/ John D. Cline
John D. Cline